

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

MORTON C. REED et al.,

Petitioners,

v.

THE SUPERIOR COURT OF  
LOS ANGELES COUNTY,

Respondent;

CASE FINANCIAL, INC.,

Real Party in Interest.

B151210

(Super. Ct. No. BC242279)

ORDER MODIFYING OPINION  
[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed September 20, 2001, be modified as follows:

On page 9 of the typewritten opinion, delete the first and second paragraphs and insert in lieu thereof the following:

If the trial court denies a request to stay the underlying proceedings, the moving party may request the appellate court to stay them. The party could request the stay by a petition for a writ of supersedeas ancillary to an appeal from

the order denying disqualification. (*Truck Ins. Exchange v. Fireman's Fund Ins. Co.*, *supra*, 6 Cal.App.4th 1050, 1055, fn. 4; § 923.) Or the party could request the stay from the appellate court ancillary to a petition for extraordinary relief on the merits. (*Dill v. Superior Court* (1984) 158 Cal.App.3d 301, 304; *Cho v. Superior Court* (1995) 39 Cal.App.4th 113, 118.) A petition for extraordinary relief on the merits accompanied by a request for an immediate stay is preferable, because generally extraordinary writs are determined more speedily than appeals. The specter of disqualification of counsel should not be allowed to hover over the proceedings for an extended period of time for an appeal.

Whichever method is used for seeking appellate relief, a reasonably persuasive showing that the claim of disqualification likely has merit will probably persuade the appellate court to stay the underlying proceedings pending resolution of the disqualification issue. (See *People v. Hull* (1991) 1 Cal.4th 266, 275.) Courts of Appeal understand that prejudice occurs if the trial is not stayed pending an appeal of an arguably meritorious claim of disqualification. (*Meehan v. Hopps*, *supra*, 45 Cal.2d at p. 218.)

This modification does not effect a change in the judgment.